

# Division of Consumer Affairs

The Division of Consumer Affairs is responsible for administering and enforcing laws enacted to ensure integrity and fairness in New Jersey's commercial and investment marketplaces. The Division's essential mission is to protect New Jersey consumers from fraud, deception and unconscionable practices, and to make certain the state's licensed professions and trades observe the highest standards of conduct. In addition to investigating and, where appropriate, prosecuting those who commit fraud and other consumer-related violations, the Division provides information and public awareness outreach on many significant consumer issues. The major units of the Division include its Bureau of Securities, Office of Consumer Protection, Lemon Law Unit, Regulated Business Unit, Charitable Registration and Investigation Unit, Legalized Games of Chance Control Commission, Office of Weights and Measures, Alternative Dispute Resolution Unit, Kosher Enforcement Unit and Halal Enforcement Unit.



## Significant Cases

### Expired Drugstore Products/ Price Fraud Lawsuit—

The Division filed separate lawsuits in 2006 against the Rite Aid and Duane Reade drugstore chains alleging that both sold products that were past the manufacturer's expiration date, including infant formula, baby food and non-prescription drugs. The Division also accused the two drugstore chains of misleading New Jersey consumers by charging them more than the posted price for products, and for failing to display their refund policies. Both Rite Aid and Duane Reade are also accused of violating prior enforcement agreements with the Division.

### “Cherry Hill Triplex” Auto Sales Fraud Lawsuit—

In a multi-count civil lawsuit, the Division accused several car dealerships trading under the name “Cherry Hill Triplex” in Cherry Hill with misleading consumers. The lawsuit charged that Cherry Hill Triplex dealerships violated the law by, among other things, advertising such enticements as “\$8,000 GUARANTEED FOR YOUR TRADE,” “no credit check,” and “you instantly qualify regardless of your credit,” then failing to provide the advertised \$8,000 trade-in allowance and credit. The suit also accused Triplex dealers of failing to properly display sale prices on used and new vehicles, and failing to disclose the prior rental history of used vehicles. The case is pending.

### Ramsey Auto Group Settlement—

The Division settled its lawsuit against the Ramsey Auto Group, Inc., with an agreement that required the company to pay \$250,000 to the state, establish a restitution account in the sum of \$156,000, and substantially change its business practices. The State's complaint accused the Ramsey Auto Groups dealerships of failing to disclose the material terms of auto deals, not honoring advertised prices, not disclosing the condition of used cars, misrepresenting the amount paid to the New Jersey Motor Vehicle Commission for license, title and registration

fees, charging for “after sale” items (such as window etching) without consumer authorization, not providing accurate credits for trade-ins, failing to give customers the chance to review all sales documents before signing, placing advertisements that did not comply with the law and charging for repairs performed in excess of the estimated price without consumer's consent.

“Animal Welfare” Charity Collection Injunctions: In separate court actions, the Division obtained injunctions in 2006 barring two charities – the “National Animal Welfare Foundation” and the “Lovers of Animals Foundation” from soliciting charitable donations in New Jersey. Both entities collected donations – ostensibly for the prevention of cruelty to animals — by placing canisters on retail store counters. The Division alleged that little, if any, of the money collected in those canisters actually went toward combating animal cruelty. Instead, the Division charged, most of the money was spent on fund-raising-related expenses. In addition, neither of the two entities had registered with the Division's Charitable Registration and Investigation unit, as required by law. The Division of Consumer Affairs Web site includes a link through which consumers can report the locations of NAWF or LOA donation canisters still in use.

### Shutdown of Unlicensed Nursing School

The owners of the Comtrain Institute in East Orange — Luc Gayot and Donald H. Mintz — were permanently barred from operating, owning or working for a vocational school or practical nursing school as the result of action taken by the Division of Consumer Affairs. A New Jersey Superior Court judge concluded that Gayot and Mintz offered practical nursing courses without being licensed and, in doing so, had violated both the Consumer Fraud Act and the Nurse Practice Act. The Division had alleged that Gayot and Mintz repeatedly and flagrantly misrepresented to students that Comtrain was licensed to teach practical nursing courses. Because of Comtrain's misleading claims, students who attended the school were unable to sit for their licensing exams.



### Bureau of Securities Market Timing Settlements—

The Division's Bureau of Securities settled three major cases in 2006 that involved allegations of deceptive market timing or illegal late trading. Market timing involves making frequent trades into and out of mutual funds to take advantage of market fluctuations. Most funds have policies against market timing, which harms long-term investors by (1) allowing the market timer to siphon off short-term profits and dilute the value of the fund, (2) increasing transactional costs of the fund, and (3) making the fund more difficult to manage. Late trading involves improperly buying and selling mutual fund shares after the close of the market that were priced as of the close. As the result of a joint settlement agreement involving the Bureau of Securities and the New York Stock Exchange, UBS Financial Services Inc. paid a total of \$49.5 million. Canary Capital Partners, LLC, agreed to pay \$10 million as a result of a settlement agreement with the Bureau of Securities and Prudential Securities entered into a multi-state settlement that required a total payment of \$270 million into an investor restitution fund.

### Major Settlement in Wachovia Conflict-of-Interest Case—

As the result of a settlement that resolved allegations of potential conflict of interest, Wachovia Capital Markets paid the New Jersey Bureau of Securities within the Division \$561,458 in civil penalties in 2006. The settlement resolved allegations by the State that certain practices at Wachovia involved potential conflict of interest between the company's research analysts and investment bankers. In addition to the half-million-dollar payout in penalties, Wachovia was also required to pay into a fund administered by the Investor Protection Trust, a non-profit corporation set up to distribute investor education grants. The Wachovia settlement was part of a multi-state investigation in which New Jersey played a lead role.

First Montauk Securities, J.P. Turner & Company Settlements: First Montauk Securities Corporation paid the State \$475,000 in civil monetary penalties in 2006 to resolve allegations that the Red-Bank-based company failed to supervise its agents, engaged in misrepresentations and omissions of fact to investors, and participated in market manipulation with respect to the resale of below-investment-grade bonds that caused substantial losses to investors. As part of the settlement agreement, the chairman and vice-chairman of the firm agreed to resign from their positions with the parent company, First Montauk Securities Corporation. In an unrelated matter, the securities firm J.P. Turner & Company L.L.C. paid \$195,000 in civil monetary penalties to settle allegations that it failed to properly supervise the conduct of its sales agents in the company's Brooklyn, N.Y. office.

## Key Initiatives

### Consumer Fraud Detection Unit—

Formed in 2006, the Consumer Fraud Detection Unit is comprised of existing Division investigators. Its principal mission is to identify deceptive commercial practices or emerging consumer fraud trends that may harm New Jersey consumers. Consumer Fraud Detection Unit investigators research misleading business practices, conduct field inspections, engage in undercover operations and organize fraud-related task forces.

### Board of Medical Examiners – Physician Profile Web site —

Public Citizen, the national public advocacy group, rated New Jersey first in a ranking of the content and “user-friendliness” of doctor disciplinary information found on state medical board Web sites. The New Jersey Healthcare Profile, located at [www.njdoctorlist.com](http://www.njdoctorlist.com), allows consumers to learn detailed information about their doctors’ education and training, as well as any disciplinary or malpractice history.

### Home Improvement Contractor Registrations:

The Division’s Regulated Business unit processed more than 40,000 registration applications for home improvement contractors in 2006, far exceeding the original estimate of 25,000 that accompanied enactment of the state’s new Home Improvement Contractors Registration Act in December 2005. The law requires contractors to register annually with the Division of Consumer Affairs. The law also requires that home improvement contracts involving more than \$500 contain certain terms including, among other things, a description of the work, the start/stop dates for the job, the total price including finance charges, and the contractor’s signature. The Division pursued more than 60 home improvement contractors in 2006 for a variety of violations, including one – AZ Renovations of Monmouth and Ocean counties – accused of creating a false registration number. The Division filed a civil lawsuit against AZ Renovations, charging that the company used its false registration number to obtain municipal permits and perform work. In December 2006, a Superior Court judge enjoined AZ from using its false registration number, and from providing home improvement contracting services until properly registered. The case is pending.

06

